

**AFFIDAVIT OF NON-PRODUCTION****THE STATE OF WEST VIRGINIA  
COUNTY OF MARSHALL  
DISTRICT OF FRANKLIN**

BEFORE ME, the undersigned, a Notary Public in and for said County, State of West Virginia, on this day personally appeared Richard Paul Whitlatch and Sammy Edward Whitlatch, as joint tenants with right of survivorship, 35 Park Street, Moundsville, WV 26401, and to me well known to be credible persons and whom, after being by me duly sworn, on his/her oath did state:

Affiants state that they are thoroughly familiar with the following described property located in Marshall County, West Virginia through personal knowledge for more than the past five years:

In and to the following described lands situated in Marshall County, West Virginia, to wit:

Beginning at a white oak stump, the Easterly corner of land of E. Hornbrook, in the Northwesterly line of Baker heirs; running thence along said line North 52° 12' East 2098.21 feet to a pin where a hickory formerly stood at the Southerly corner of lands of Samuel Reynolds; thence by said lands North 30° 42' West 2423 feet to a sugar at the Westerly corner of said lands; thence still along the same North 59° East 193 feet to a sugar at the Southerly corner of lands of Blatler; thence by said lands North 8° 56' East 236.61 feet to a white oak stump, corner to lands of W.A. Sutton; thence by said lands and lands of I.F. Harbison South 45° 44' West 2089.70 feet to a hickory at the Easterly corner of lands of J.W. McIntyre; thence by said of land South 57° 2' West 416 feet to the Northerly corner of lands of E. Hornbrook aforesaid; and thence by said lands South 31° 9' East 2538 feet to the point or place of beginning, containing 116.45 acres, more or less.

There is excepted and reserved for this conveyance all the coal within and underlying the above-described tract of land, except the surface vein of coal, together with all the right and privileges necessary and useful in the mining, removing and manufacturing of said coal into coke or other products, as conveyed to Charles McCamic and Joseph W. Wellman from Clara Suter and Henry B. Suter by deed dated and recorded March 28, 1906, in the office of the clerk of the County Commission of Marshall County, West Virginia, in *Deed Book 119, Page 377*, and from Albert E. Koch, Penelope Koch, his wife, George W. Koch and Mary E. Koch, his wife, Reason B. Koch, Jesse Koch, widower, J. Bernard Koch and Ora Koch, his wife, Elizabeth Jefferies and Samuel Jeffries, her husband, and Belle M. Koch, widow of Charles W. Koch, by deed dated December 23, 1905, and recorded on March 28, 1906, in the aforesaid office, in *Deed Book 119, Page 356*.

And being the same property conveyed to Richard Paul Whitlatch and Sammy Edward Whitlatch, joint tenants with right of survivorship, from Charles M. Wright, single, by deed dated August 10, 2005, and recorded August 22, 2005, in the office of the aforesaid clerk in *Deed Book 647, Page 217*.

BIGH MINERAL, LTD  
5111 BROADWAY  
SAN ANTONIO, TX 78209-5709

Affiants state that no operations for or production of oil, gas or other minerals have occurred on any portion of the land described herein in the past five years, nor has there been any production from any lands pooled or unitized with the subject land. No royalty payments or shut-in royalty payments have been received by us in the past five years for the aforesaid lands. Nor have any delay rentals or other payments been received by us in the past five years for any extension of time to drill under the terms of any prior oil, gas and mineral lease(s) covering said land.

Richard Paul Whitlatch  
Richard Paul Whitlatch

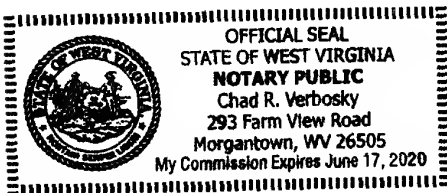
Sammy Edward Whitlatch  
Sammy Edward Whitlatch

STATE OF WV  
COUNTY OF MARSHALL

Jan Pest  
MARSHALL County 11:44:45 AM  
Instrument No 1293200  
Date Recorded 10/14/2010  
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Pages Recorded 2  
Book-Page 710-203  
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Additional \$6.00

Before me, the undersigned authority, on this day personally appeared Richard Paul Whitlatch and Sammy Edward Whitlatch, as joint tenants with right of survivorship, and known to me to be the persons whose names are subscribed to the forgoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 29<sup>th</sup> day of September, 2010



Notary Public, State of WV

Chad Verbosky  
Notary's printed name

My commission expires: June 17, 2020

STATE OF WEST VIRGINIA, MARSHALL COUNTY, SCT.:

I, JAN PEST, Clerk of the County Commission of said County, do hereby certify that the annexed writing, bearing date on the 29<sup>th</sup> day of September, 2010, was presented for and by me, admitted to record in my office upon the above certificate as to the parties therein named this 14<sup>th</sup> day of October, 2010 at 11:44 o'clock H.M.

TESTE: Jan Pest

Clerk.